

A BILL

TO INCORPORATE THE EUROPEAN AND NORTH AMERICAN RAILWAY COMPANY.

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :

Sec. 1.

their associates, successors, and assigns, are hereby made and constituted a Body Politic and Corporate, by the name of the European and North American Railway Company; and by that name may have a common seal; and sue and be sued, plead and be impleaded, and shall have and enjoy all proper remedies at law and in equity, to secure and protect them in the exercise of their rights and privileges, and to prevent invasion thereof; and may hold lands and goods, and sell, let, assign, mortgage, or convey the same. And the said Corporation are authorized to locate, construct, and finally complete, alter, and keep in repair a Railway with one or more sets of rails or tracks, with all suitable bridges, tunnels, viaducts, turnouts, culverts, drains, buildings, telegraphs or other signals, and all other necessary appendages, from some convenient harbor on the Atlantic coast of Nova Scotia, over the most practicable route, in a line to the northern frontier of this Province, so as best to connect there with a Railway to be constructed from the western boundary of New Brunswick to said northern frontier, under a charter from the last mentioned Province with the like name as is used in this Act, as the Directors of said Corporation shall judge proper. And said Corporation shall be, and hereby are, invested with all powers which may be necessary to carry into effect the purposes of this Act. And for this purpose the said Corporation shall have the right to purchase, or to take and hold, so much of the land and other real estate of private persons and corporations as may be necessary for the location, construction, and convenient operation of said Railroad; and to take and use for the construction and repair of said Railroad and appurtenances, any earth, gravel, stone, timber, or other materials on or from the land so taken: Provided, that said land so taken shall not exceed six rods in width, except where greater width is necessary for excavation and embankment: And provided also, that in all cases said Corporation shall pay for such lands so taken and used, such price as they and the owner may mutually agree on; and in case of disagreement

And the lands so taken by said Corporation shall be held as lands taken and appropriated for public highways, and no application or suit for such damages shall be made or sustained unless within three years from the time of taking such land or other property; and in case such Railroad shall pass through any woodlands or forests the Company shall have the right to fell and remove any trees standing thereon within four rods from such road, which, by falling or being blown down, might obstruct or impair said Railway, by paying a just compensation therefor, to be recovered in the same manner as is provided for the recovery of other damages in this Act. And for the purposes aforesaid the said Company and their servants are authorized to enter upon any lands of Her Most Gracious Majesty the Queen or of this Province, or of any person or body corporate, and to survey and take levels of the same, and to set out and ascertain such parts thereof as they shall think necessary for making the said Railroad, without making any compensation therefor or being liable for damages therefor, unless for wilful and unnecessary damage. And that as soon as such line of Railroad is laid down and ascertained, it shall be lawful for the Governor, by and with the advice of the Executive Council, to vest in the said Corporation, their successors and assigns, the title of and in all the Crown lands situate within on each side of said line, in order that said Crown lands may be held, used, and enjoyed for the benefit of said Railroad, and to raise funds for the construction thereof.

Sec. 2. When said Corporation shall take any land as aforesaid of any infant, person *non compos mentis* or *feme covert*, the guardian of said infant or person *non compos*, or the husband of such *feme covert*, or in the event of his being under guardianship, the guardian of such husband shall have full power to agree and settle with said Corporation for damages by reason of taking such land, and to give good and valid release and discharges therefor.

Sec. 3. The Capital Stock of said Corporation shall consist of not less than
nor more than
shares, and the government of the affairs of the said Corporation shall be vested in seven, nine, or thirteen Directors, who shall be chosen as hereinafter directed, and shall hold their offices until others shall have been duly elected to take their places, a majority of whom shall form a quorum; and they shall elect one of their number to be President of the Board, who shall also be President of the Corporation, and shall have authority to choose a Clerk who shall be sworn to the faithful discharge of his duty, and a Treasurer who shall be sworn and also give bonds to the Corporation, with satisfactory sureties, in the sum of not less than

for the faithful discharge of his trust. And
for the purpose of receiving subscriptions to the said Stock, Books shall be opened under the direction of the
named in the first section of this Act, at such time as they may determine, in the City of Halifax and elsewhere as they may appoint, to remain open for successive days, of which times and places of subscription public notice shall be given in some newspaper printed in Halifax twenty days at least previous to the opening of such subscription; and the same
persons are authorized to call the first meeting of said Corporation by giving thirty days notice in
newspapers published in Halifax, of the time and place and purposes of such meeting.

Sec. 4. The Corporation shall have power to make all necessary bye-laws and regulations, not inconsistent with the laws of this Province, for their government, and for the due conduct and management of their affairs and property.

Sec. 5. The President and Directors for the time being are authorized, by themselves or their agents to exercise all the powers herein granted to the Corpo-

ratio
and
such
cess
in an
in th
tion
share
exec
sure
ment
ment
as sh
may
ing
same
stock
share
teres
ded
for a
their
men
one
late,
Stock
cred
befo
S
Cor
be t
esta
ther
and
risk
the
and
with
S
con
any
way
or h
all
tran
to c
by s
said
Cor
S
way
safe
pike

ration, for the purpose of locating, constructing, and completing said Railroad, and the transportation of persons, goods, and property of all descriptions, and all such powers for the management of the affairs of the Corporation, as may be necessary to carry into effect the objects of this grant ; to purchase and hold, within and without the Province, land, materials, engines, and other necessary things in the name of the Corporation, for the use of said road, and for the transportation aforesaid ; to make such equal assessments from time to time on all the shares in the said Corporation as they may deem expedient and necessary in the execution and progress of the work, and direct the same to be paid to the Treasurer of the Corporation. And the Treasurer shall give notice of all such assessments, and in case any subscriber or stockholder shall neglect to pay any assessment on his share or shares for the space of thirty days after such notice is given, as shall be prescribed by the by-laws of said Corporation, the Directors may order the Treasurer to sell such share or shares at public auction, after giving such notice as they may prescribe as aforesaid, to the highest bidder, and the same shall be transferred to the purchaser, and such delinquent subscriber or stockholder shall be held accountable to the Corporation for the balance if his share or shares shall sell for less than the assessments due thereon, with the interest and costs of sale, and shall be entitled to the overplus as aforesaid : Provided that no shareholder in said Company shall be in any manner whatever liable for any debt or demand due by said Company beyond the extent of his, her, or their shares in the Capital Stock of said Company not paid up ; and no assessment shall be laid upon any shares in said Company of a greater amount than one hundred dollars : And provided also, that the shares be deemed personal estate, and shall be transferable as such, and that one-tenth part of the said Capital Stock of One Million of Dollars shall be paid up, and shall be deposited to the credit of said Company in some one of the chartered Banks of this Province, before the commencement of the said Railroad.

Sec. 6. A Toll is hereby granted and established for the sole benefit of said Corporation upon all passengers and property, of all descriptions, which may be transported by them upon said road, at such rate as may be agreed upon and established, from time to time, by the Directors ; and in case of non-payment thereof to the person appointed to receive the same, the Company may sue for and recover the same, and may detain such property until payment thereof at the risk of the owner or owners thereof. The transportation of persons and property, the construction of wheels, the form of carriages and cars, the weights of loads, and all other matters and things in relation to said road, shall be in conformity with such rules and regulations as the Directors shall from time to time prescribe.

Sec. 7. The Legislature may authorise any other Company or Companies to connect any other railroad or railroads with the railroads of said Corporation at any points on the route of said road ; and this Company may connect any railways to be constructed under this Charter with any other railroad now existing or hereafter to be constructed. And said Corporation shall receive and transport all persons, goods, and property of all descriptions which may be carried and transported to their railroad or such other railroad as may be hereafter authorized to connect therewith, at the same rates of toll and freight as may be prescribed by said Corporation, but not to exceed the general rates of freight and toll on said railroad received for freight and passengers at any of the deposits of said Corporation.

Sec. 8. If the said Railroad, and the course thereof, shall cross any private way, the said Corporation shall so construct said Railroad as not to obstruct the safe and convenient use of such private way ; and if it shall cross any canal, turnpike, railroad, or other highway, the said Railroad shall be so constructed as not

to obstruct the safe and convenient use of such canal, turnpike, or other road ; and the said Corporation shall have power to raise or lower such turnpike, highway, or private way, so that the Railroad may pass over or under the same, and meet such gate or gates thereon as may be necessary for the safety of travellers on said turnpike, railroad, highway turnpike, or private way.

Sec. 9. The Corporation shall constantly maintain in good repair all bridges, with their abutments and embankments, which they may construct for the purpose of conducting their Railroad over any canal, turnpike, highway, or private way, or for conducting such private way or turnpike over said Railroad.

Sec. 10. If said Railroad shall cross any tide-waters or navigable rivers, the Corporation are authorized to erect, for the sole and exclusive travel on their said Railroad, a bridge across each of the said waters or rivers ; provided such bridge shall be so constructed as not unnecessarily to obstruct or impede the navigation of said waters.

Sec. 11. The Corporation shall, if required so to do, erect and maintain substantial and sufficient fences on each side of the land taken by them for their Railroad, where the same passes through enclosed or improved lands, or lands that may hereafter be improved, and for neglect or failure to erect and maintain such fence the Corporation shall be liable to be indicted in the Supreme Court of the County where the lands lie, and fined in such sums as shall be judged necessary to repair the same, and such fine shall be expended for the erection or repair of said fence under the direction of the Court.

Sec. 12. The Company shall at all times, when thereto required by Her Majesty's Deputy Postmaster General, or the Post Office authorities in this Province, the Commander of the Forces, or any person having the superintendence and command of any police force, and with the whole resources of the Company, if necessary, carry Her Majesty's Mail, the Provincial Mails, Her Majesty's Military or Naval Forces, or Militia, and all artillery, ammunition, provisions, or other stores for their use, and all policemen, constables, and others travelling on Her Majesty's service, on their said railroad, on such terms and conditions, and under such regulations as the said Company and the said persons respectively shall agree upon ; or if they cannot agree, then on such terms, conditions, and regulations as the Governor, or person administering the government of the Province, shall in Council make : Provided, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make with regard to the carriage of the said Mails or Her Majesty's forces, and other persons and articles as aforesaid, or the rates to be paid therefor, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Sec. 13. If any person shall wilfully and maliciously, or wantonly, and contrary to law, obstruct the passage of any carriage on said Railroad, or in any way spoil, injure, or destroy said Railroad, or any part thereof, or any buildings, carriages, materials or implements, or any other thing belonging thereto, or to be employed in the construction or for the use of said Railroad, he, she, or they, or any person aiding or abetting therein, shall forfeit and pay to said Corporation for every such offence, treble such damages to as shall be proved before the Supreme Court, or where the damages to be recovered shall not exceed ten pounds before any two Justices of the Peace for the County where the offence is committed, who shall have power to try the same and to issue a Warrant of distress against the offender's goods for such treble damages and costs of prosecution, and for want of goods to commit the offender to prison as in ordinary cases of debt ; and in addition thereto any such person and every person who shall wilfully

or maliciously, or wantonly, and contrary to law, obstruct, hinder, or prevent the carrying on, completing, and maintaining the said Railroad, or the works appertaining thereto, shall be guilty of a misdemeanour, and being convicted thereof shall be punished accordingly.

Sec. 14. The Corporation shall keep, in a book for that purpose, a regular account of all their disbursements, expenditures and receipts, and the books of the Corporation shall at all times be open to the inspection of the Governor and Council, and of any Committee duly authorized by the Legislature; and at the expiration of every year the Treasurer of the Corporation shall make an exhibit under oath to the Legislature of the nett profits derived from the income of said Railroad.

Sec. 15. All real estate purchased by said Corporation for the use of the same under the section shall be taxable to the Corporation by the several cities and townships in which such lands lie, in the same manner as lands owned by private persons, and shall in the valuation list be estimated the same as other real estate of the same quality in such city or township, and not otherwise, and the shares owned by the respective stockholders shall be taxable as personal estate to the owners thereof, in the place where they reside and have their home. And whenever the nett income of said Corporation shall have amounted ten per centum per annum upon the cost of the said road, and its appendages and incidental expenses, the Directors shall make a special report of the fact to the Legislature; from and after which time one moiety or such other portion as the Legislature may from time to time determine, of the nett income from said Railroad accruing thereafter over and above ten per centum per annum, first to be paid to the stockholders, shall annually be paid over by the Treasurer of the Corporation as a tax into the Provincial Treasury for the use of the Province. And the Province may have an action therefor against the Corporation to recover the same. But no other tax than herein is provided shall ever be levied or assessed on said Corporation, or any of their privileges or franchises.

Sec. 16. The annual meeting of the members of said Corporation shall be holden on the last Wednesday in July, or such other day as shall be determined by the bye-laws, at such time and place as the Directors for the time being shall appoint; at which meeting the Directors shall be chosen by ballot, each proprietor, by himself or proxy, being entitled to as many votes as he shall hold shares, and the Directors may call special meetings of the stockholders whenever they shall deem proper, giving such notice as the Corporation, by their bye-laws, shall direct.

Sec. 17. The Legislature shall at all times have the right to enquire into the doings of the Corporation, and into the manner in which the privileges hereby granted may have been used by the Corporation, and to correct and prevent all abuses of the same, and to pass any law imposing fines and penalties upon said Corporation that may be necessary more effectually to enforce compliance with the provisions, liabilities, and duties herein set forth.

Sec. 18. If the said Corporation shall not have been organized, and the location according to actual survey of the route made, on or before the thirty-first day of December, in the year of our Lord 1855, or if the said Corporation shall fail to complete said Railroad on or before the thirty-first day of December, in the year of our Lord 1865, in either of the above mentioned cases this Act shall be null and void.

Sec. 19. The Company may from time to time borrow in this Province, or elsewhere, such sums of money, not exceeding at any time the sum of
, as they may find expedient, and at such rate of interest,

not exceeding six per cent, as they may think proper; and may make the bonds, debentures, or other securities they shall grant for the sums so borrowed, payable in currency or sterling, and at such place or places within or without this Province as they may deem advisable, and may hypothecate or pledge the lands, tolls, revenues, and other property of the said Company, for the due payment of the said sums and the interest thereon.

Sec. 20. All fines and forfeitures imposed by this Act, or which may be lawfully imposed by any bye-law to be made in pursuance thereof, (of which bye-law when produced all Justices are hereby required to take notice,) the levying and recovery of which are not herein particularly directed, shall, upon proof of the offence before any one or more Justices of the Peace for the County, either by the confession of the party or by the oath or affirmation of one credible witness, (which oath or affirmation any such Justice is hereby required to administer,) be levied by distress and sale of the offender's goods by Warrant of such Justice or Justices; and all such fines and forfeitures, the application whereof is not hereinbefore particularly directed, shall be paid to the Treasurer of the Company for the use of the said Railroad, and the overplus, after deducting the penalty and the expenses of levying and recovery thereof, shall be rendered to the owner; and for want of goods the offender shall be committed to gaol, there to remain till such penalty and expenses attending the same shall be paid.

Sec. 21. If any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers or authorities therein given or granted, every such action or suit shall be commenced within six calendar months next after the fact committed, or in case there shall be a continuation of such damage then within six calendar months next after the doing of such damage shall cease and not afterwards, and the defendant or defendants in such action or suit may plead to the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance of and by the authority of this Act; and if it shall appear to be so done, or if any action or suit shall not be brought within the time aforesaid, or if the plaintiff shall be nonsuit or discontinue, or if judgement shall pass against the plaintiff, the defendant shall recover costs and have such remedy therefor as any defendant hath for costs of suit in other cases of law.

Sec. 22. Her Majesty, her Heirs, and Successors, may, at any time before or after the said Railroad is completed, assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold and shall then have, and of all the rights, privileges, and advantages vested by this Act in the said Company (all which shall, after such assumption, be vested in Her Majesty, her Heirs, and Successors) on giving to the said Company three months notice of the intention to assume the same, and in paying to the said Company within three months of the expiration of such notice the whole amount of their capital stock then paid up and expended, with interest on the paid up capital from the time of the paying up of the same until the time of the opening of the said Railroad.

Sec. 23. This Act shall be a public Act, and shall as such be judicially taken notice of by all Judges, Justices of the Peace, and others, without being specially pleaded.

Sec. 24. Nothing herein contained shall be construed to except the Railroad by this Act authorized to be made from the provisions of any general Act relating to Railroads which may be passed during the present or any future Session of Parliament.

Sec. 25. If the Province of New Brunswick shall in any legal way constitute

this Company a Corporation within its limits and jurisdiction, this Company is hereby authorized and empowered to exercise within the limits and jurisdiction of the said Province, as well as of the adjoining State of Maine, in the United States of America, all the rights and powers, and shall have all the privileges and immunities which it could have, exercise, or enjoy within this Province; and in that case the said Company may be allowed to increase its capital stock and shares of one hundred dollars each to an amount equal to the cost of constructing said road so incorporated and constituted, not exceeding the number of one hundred and fifty thousand shares in all.